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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **THERESA LYNETTE DAVIS-BATES,**  
13 **AKA THERESA LYNETTE DAVIS**  
6835 Massy Harris Way  
14 Corona, CA 92880

Case No. *2013-264*

**A C C U S A T I O N**

15 **Registered Nurse License No. 723988**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about April 1, 2008, the Board of Registered Nursing issued Registered Nurse  
24 License Number 723988 to Theresa Lynette Davis-Bates, aka Theresa Lynette Davis  
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to  
26 the charges brought herein and will expire on October 31, 2013, unless renewed.  
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1 (b) Use any controlled substance as defined in Division 10 (commencing  
2 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
3 dangerous device as defined in Section 4022, or alcoholic beverages, to an  
4 extent or in a manner dangerous or injurious to himself or herself, any other  
5 person, or the public or to the extent that such use impairs his or her ability to  
6 conduct with safety to the public the practice authorized by his or her license.

7 (c) Be convicted of a criminal offense involving the prescription,  
8 consumption, or self-administration of any of the substances described in  
9 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
10 record pertaining to, the substances described in subdivision (a) of this section,  
11 in which event the record of the conviction is conclusive evidence thereof.

12 8. Section 2765 of the Code states:

13 A plea or verdict of guilty or a conviction following a plea of nolo  
14 contendere made to a charge substantially related to the qualifications,  
15 functions and duties of a registered nurse is deemed to be a conviction within  
16 the meaning of this article. The board may order the license or certificate  
17 suspended or revoked, or may decline to issue a license or certificate, when the  
18 time for appeal has elapsed, or the judgment of conviction has been affirmed  
19 on appeal or when an order granting probation is made suspending the  
20 imposition of sentence irrespective of a subsequent order under the provisions  
21 of Section 1203.4 of the Penal Code allowing such person to withdraw his or  
22 her plea of guilty, and to enter a plea of not guilty, or setting aside the verdict of  
23 guilty, or dismissing the accusation, information or indictment.

24 9. Section 482 of the Code states:

25 Each board under the provisions of this code shall develop criteria to  
26 evaluate the rehabilitation of a person when:

27 (a) Considering the denial of a license by the board under Section 480; or

28 (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of  
rehabilitation furnished by the applicant or licensee.

10. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
revoke a license on the ground that the licensee has been convicted of a crime substantially  
related to the qualifications, functions, or duties of the business or profession for which the  
license was issued.

11. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted  
by a board within the department pursuant to law to deny an application for a  
license or to suspend or revoke a license or otherwise take disciplinary action  
against a person who holds a license, upon the ground that the applicant or the  
licensee has been convicted of a crime substantially related to the qualifications,  
functions, and duties of the licensee in question, the record of conviction of the  
crime shall be conclusive evidence of the fact that the conviction occurred, but

only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445, subdivision (b)

states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

**COST RECOVERY**

14. Business and Professions Code section 125.3 states in part that the Board may request the administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
2 and enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(August 17, 2000 Conviction of DUI on February 26, 2000)**

5 15. Respondent is subject to disciplinary action under Code sections 490 and 2761,  
6 subdivision (f), in that on August 17, 2000, Respondent was convicted of a crime that is  
7 substantially related to the qualifications, functions, and duties of a registered nurse. The  
8 circumstances are as follows:

9 16. On or about August 17, 2000, in *The People of the State of California v. Theresa*  
10 *Davis Prudholme*, Superior Court of California, County of Los Angeles, Inglewood Division,  
11 Case No. 01W04026, Respondent was convicted on her plea of nolo contendere of violating  
12 Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol), a misdemeanor.

13 17. The facts that led to Respondent's conviction are that on February 26, 2000,  
14 Respondent was stopped by the California Highway Patrol in Inglewood, California, while  
15 driving. Officers found that Respondent was driving under the influence of alcohol and issued  
16 Respondent a citation and released her on her own recognizance.

17 18. On June 27, 2000, Respondent pled not guilty to both counts. On August 8, 2000,  
18 Respondent failed to appear for a pretrial hearing and a \$25,000 bench warrant was issued for  
19 Respondent's arrest.

20 19. On August 17, 2000, Respondent appeared in court and the bench warrant was  
21 recalled. Respondent withdrew her plea of not guilty and pled nolo contendere to violation of  
22 Vehicle Code section 23152(a). Count two, violation of Vehicle Code section 16028(a), was  
23 dismissed in furtherance of justice.

24 20. As a result of the above conviction, Respondent was placed on summary probation  
25 for three years, ordered to pay various fees and fines, participate in a 3-month first offender  
26 program, not operate a motor vehicle within 12 hours of having consumed alcoholic beverages,  
27 not drive without a California driver's license, not refuse to take chemical/breath test for alcohol  
28 or drugs, and Respondent's driving privileges were restricted for 90 days.

**SECOND CAUSE FOR DISCIPLINE**

**(December 22, 2009 Conviction of DUI on December 28, 2008)**

21. Respondent is subject to disciplinary action under Code sections 490 and 2761, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

22. On or about November 9, 2009, in *The People of the State of California v. Theresa Davis Bates*, Superior Court of California, County of Los Angeles, Case No. 9SY02167, Respondent was convicted on her plea of nolo contendere of violating Vehicle Code section 23152(b) (Driving With a Blood Alcohol Content of 0.08% or More), a misdemeanor.

23. The facts that led to Respondent's conviction are that on December 28, 2008, at approximately 1849 hours, Gardena Police Department officers observed Respondent speeding. Officers stopped Respondent, who was the sole occupant of the vehicle. As soon as officers approached Respondent's vehicle, they smelled an odor of alcohol emitting from Respondent's person. Officers had Respondent perform a series of standardized field sobriety tests and Respondent performed poorly. Respondent was placed under arrest for driving under the influence of alcohol and transported to the Gardena Police Department jail.

24. Respondent submitted to a breath test and her blood alcohol content (BAC) results were .15/.14. Respondent requested a blood test and a blood test was obtained at Bayside Medical Center and booked into evidence. The blood test revealed a BAC of .15 percent.

25. As a result of the above conviction, Respondent was placed on summary probation for four (4) years, and ordered, among other things, to serve 11 days in the Los Angeles County Jail, to pay various fees and fines, to enroll and participate in, and successfully complete an 18-month licensed second offender alcohol and other drug education and counseling program, and to obey all laws.

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1 Nursing and Psychiatric Technicians in Case No. NV 2008-1690 on October 21, 2011, involving  
2 the same matters alleged herein.

3 **DISCIPLINE CONSIDERATIONS**

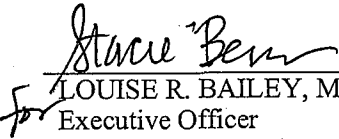
4 31. To determine the degree of discipline, if any, to be imposed on Respondent,  
5 Complainant alleges that on or about October 21, 2011, in a prior disciplinary action entitled *In*  
6 *the Matter of the Accusation Against Theresa Lynette Davis* before the Board of Vocational  
7 Nursing and Psychiatric Technicians, in Case Number VN 2008-1690. Respondent surrendered  
8 her license for violation of sections 490 and 2878, subdivisions (a) and (f). That decision is now  
9 final and is incorporated by reference as if fully set forth.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number 723988, issued to Theresa  
14 Lynette Davis-Bates, aka Theresa Lynette Davis;
- 15 2. Ordering Theresa Lynette Davis-Bates to pay the Board of Registered Nursing the  
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
17 Professions Code section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.
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22 DATED: October 11, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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